IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT (L) NO. 3578 OF 2005

Amod Prabhu and anr. .....**Plffs.**
vs.
Jyotiprasad Shantaram Gavankar .....**Defnds.**

U.P. Warunjikar for the plaintiffs.
S.P. Dubey for the defendants.
Naveen Manchivanti, Area Credit Manager of ICICI Bank.

CORAM: S.U. KAMDAR, J.

DATE : 17th January,2006.

P.C. :.

1. By consent of the parties the following order is passed in the suit itself.

2. Learned counsel for the defendant has produced all the original documents inrespect of the suit flat and the same are handed over to the ICICI bank towards the loan facility lent and advanced by the bank to the plaintiff herein. The ICICI Bank has handed over a draft of Rs.20 lacs dated 15.12.2005

bearing no. 190353. The draft has been handed over to the defendant in court for the aforesaid amount of Rs.20 lacs. Learned counsel appearing for the plaintiff gives an undertaking to deposit a sum of Rs.50,000/- today in court itself and the office is directed to accept the payment even if the time is expired. Learned counsel for the defendants seeks seven days time i.e. upto 24.1.2006 to vacate and hand over peaceful possession of the suit flat being Flat no. A1/12,third floor of Uma Shanti Co-op Hsg. Soc, 434 Senapati Bapat Marg, Mahim, Mumbai in pursuance of the sale which is already concluded today in court and the same is recorded in the present proceedings.. On his handing over possession of the said flat in addition to the amount whatsoever he has received he is entitled to withdraw the sum of Rs.50,000/- which are deposited by the plaintiff in court. The defendant is at liberty to withdraw the said amount after handing over vacant possession of the same to the plaintiff herein. On the handing over possession and receipt to the plaintiff, neither of the parties will have any

claim against each other. The undertaking given by the defendant is accepted. On handing over possession of the said premises the dependants will also co-operate in completion of the formalities of the society for transfer of the flat if necessary, by the society for effectively transferring the flat in favour of the plaintiff herein.

3. On the aforesaid the plaintiffs seeks leave to withdraw the suit. Suit is dismissed as withdrawn,. In view of the withdrawal of the suit itself motion does not survive and the same is dismissed as infructious. The plaintiff will be entitled to refund of court fee of two-third amount.

sd/-

(S.U.KAMDAR, J)